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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/735,925 | 12/14/2000 | Carl Dionne | 1561-63 | 5812 |

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| 23117 | 7590 | 05/01/2007 |
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| ARLINGTON, VA 22203 | | |

| EXAMINER | |
|--------------------|--|
| MANIWANG, JOSEPH R | |

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2144 | |

| MAIL DATE | DELIVERY MODE |
|------------|---------------|
| 05/01/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/735,925

Applicant(s)

DIONNE ET AL.

Examiner

Joseph R. Maniwang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/09/07 has been entered.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 36-42 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. "A computer-readable medium having computer-readable instructions" is not explicitly defined by the Specification and can be reasonably interpreted by one of ordinary skill in the art to include transmission media such as signals, waves, radiation, links, wires, fibers, or other items that are not physical articles or objects and/or items which would not be structurally and functionally interconnected to the software instructions in such a manner as to enable the software to act as a computer component and realize any functionality. Examiner suggests

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amending the claim language to recite "A computer-readable storage medium" in parallel with the Specification (see p. 7, lines 4-13) to overcome the rejection.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 37 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 37 recites the limitation "A method according to claim 36". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 23-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Hacherl (U.S. Pat. No. 6,324,571).

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9. Regarding claims 23, 29, 35, 36, and 37, Hacherl disclosed a method and system for sharing data over a network having a plurality of network-connected terminals, comprising a data object that contains data (see column 3, lines 40-43; column 6, lines 27-41) and that is duplicated to each of said other network-connected terminals, such that there exists within the network a set of duplicated data objects (see column 3, lines 16-18; column 7, lines 58-62; column 8, lines 42-44); and periodically providing over said network an update of the data contained in said data object (see column 3, lines 18-19; column 5, lines 25-29; column 7, lines 38-57; column 8, lines 45-52), for said set of duplicated data objects, storing information as to which of said data objects is a master data object that is responsible for maintaining consistency between the data in the data objects in said set, wherein any of said duplicated data objects in the set may be a master data object (see column 3, lines 6-13; column 8, lines 12-13), and when the terminal that maintains said master data object becomes unavailable, determining which of said data objects in the set should be master data object and establishing said data object as master data object (see column 8, lines 21-29; column 9, lines 58-65).

10. Regarding claims 24, 30, and 38, Hacherl disclosed the method and system wherein said instructions to maintain data consistency between duplicated objects monitor CPU usage and network bandwidth utilization (see column 11, lines 34-65; column 13, lines 20-30).

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11. Regarding claims 25, 31, and 39, Hacherl disclosed the method and system wherein a terminal becomes unavailable when its CPU usage exceeds a threshold (see column 11, lines 34-65; column 13, lines 20-30).
12. Regarding claims 26, 32, and 40, Hacherl disclosed the method and system wherein a terminal becomes unavailable when its bandwidth utilization exceeds a threshold (see column 11, lines 34-65; column 13, lines 20-30).
13. Regarding claims 27, 33, and 41, Hacherl disclosed the method and system wherein a terminal becomes unavailable when it is switched off (see column 11, lines 34-65; column 13, lines 20-30).
14. Regarding claims 28, 34, and 42, Hacherl disclosed the method and system wherein a terminal becomes unavailable when its connection to the network is lost (see column 11, lines 34-65; column 13, lines 20-30).

Response to Arguments

15. Applicant's arguments with respect to new claims 23-42 have been considered but are moot in view of the new ground(s) of rejection. Examiner submits that the newly submitted claims are taught by the prior art of record as detailed in the above rejection under 35 U.S.C. 102(e).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hara et al. (U.S. Pat. No. 6,199,111)

Schmitter (U.S. Pat. No. 5,583,983)

Williams et al. (U.S. Pat. No. 5,410,688)

Davidson et al. (U.S. Pat. No. 5,307,490)

Kingdon et al. (U.S. Pat. No. 5,784,560)

Debique et al. (U.S. Pat. No. 5,613,079)

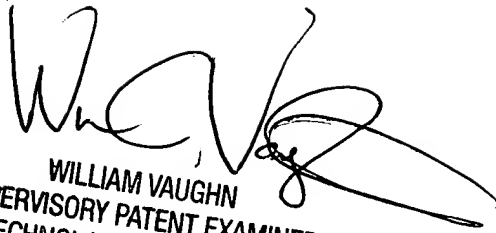
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R. Maniwang whose telephone number is (571) 272-3928. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JM



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